

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ORDER

Kristoff Cain’s (“Defendant’s”) Second Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A) (“Motion”) (Doc. 95), based on COVID-19 related health concerns, will be denied.

On December 28, 2021, the Court denied Defendant’s first motion for reduction of sentence (Doc. 84) after considering the 3553 factors and the specific facts and circumstances regarding Defendant, vis-à-vis COVID-19. Among other things, the Court found that the 3553 considerations, including the serious nature of Defendant’s offense, and the needs for just punishment, deterrence and rehabilitation, remained salient and were not outweighed by the risks to Defendant’s health associated with him remaining incarcerated. The Court also cited Defendant’s refusal to receive the COVID-19 vaccine as an additional reason supporting denial. (Doc. 92).

Defendant has filed a second motion for compassionate release (Doc. 95), again raising COVID-19 related concerns stemming from his underlying health issues and the conditions at Fort Dix, and arguing that the 3553 factors coupled with Defendant's exemplary prison conduct counsel in favor of early release. The Government opposes Defendant's Motion (Docs. 102, 111, 112), and Defendant has filed a Reply and a Supplement in support. (Docs. 113, 114).

After careful review, the Court agrees with the Government that Defendant's second motion largely raises the same arguments addressed in his initial motion, and, to this extent, the motion is denied for the same reasons set forth in the Court's prior order (Doc. 92).¹

The Court further finds that the additional information that Defendant cites concerning his underlying health conditions, the conditions at FCI Fort Dix and his efforts at rehabilitation fails to dictate a different result. First, the medical documents provided indicate that the onset of the additional health conditions of which Defendant complains – including his obesity, hypertension and chronic left abdominal pain – predates his prior motion. *See Doc. 103.* Again, even assuming these are serious medical conditions that present significant risks to Defendant's health, those risks do not outweigh the section 3553 factors, including the serious nature of Defendant's offense, and the needs for just punishment, deterrence and rehabilitation. Second, Defendant has not identified any new conditions at the Fort Dix facility that outweigh the 3553 factors. To the contrary, as of March 2, 2023, Fort Dix reports only four inmates and zero staff testing positive for Covid-19, *see* <https://www.bop.gov/coronavirus/> (last visited March 2, 2023), and the medical records do not demonstrate that the prison's handling of Defendant's medical conditions warrants compassionate release. *See Doc. 103.* Third, while the Court commends Defendant on his continued rehabilitative efforts while in prison, it reiterates that this is what the Court hopes is always the case when a defendant is incarcerated.

Finally, the Court acknowledges the parties' dispute over Defendant's willingness to receive the Covid-19 vaccine. The medical records indicate that, contrary to his prior stance, Defendant agreed to be vaccinated at an August 2022 clinic. Defendant, however, arrived at the

¹ The applicable standards governing motions for compassionate release are set forth in the Court's prior order and are incorporated herein. *See Doc. 92; see also* Section 18 U.S.C. § 3582(c)(1)(A).

clinic only to refuse vaccination again, asserting that he did not feel well. *See* Doc. 111, Ex. A. As far as the Court is aware, Defendant remains unvaccinated. This factual dispute is immaterial, however, because, as explained in its prior order, the Court would deny Defendant's Motion in any event based on the section 3553 factors.

In short, while the Court recognizes that Defendant has less than two months remaining on his sentence, it has weighed the specific facts and circumstances regarding Defendant, vis-à-vis COVID-19 – along with all of the considerations in Section 3553 and any new information contained in Defendant's current motion – and continues to disagree that release is warranted.

For these reasons, Defendant's Motion (**Doc. 95**) for reduction of sentence is **DENIED**.

IT IS SO ORDERED.

March 3, 2023

s\Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record

cc (via First-Class U.S. Mail):

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